

**CHAPTER 112. POLICIES COVERING PERSONAL PROPERTY
PLEGGED AS COLLATERAL**

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Authority

The provisions of this Chapter 112 issued under sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), unless otherwise noted.

Source

The provisions of this Chapter 112 adopted January 18, 1974, Pa.B. 87, unless otherwise noted.

Notes of Decisions

Regulation

These provisions are included in the definition of "regulation" under the Administrative Agency Law (71 P. S. § 1710.2(e)), and therefore no right of appeal to the Commonwealth Court lies under section 41 of the Administrative Agency Law nor does the Court have jurisdiction of appeal by way of broad certiorari. *Insurance Company of North America v. Insurance Department*, 327 A.2d 411 (Pa. Cmwlth. 1974).

Cross References

This chapter cited in 10 Pa. Code § 41.3 (relating to contracts with consumers).

§ 112.1. Purpose.

The purpose of this chapter is to establish standards for policies of insurance covering personal property pledged by debtors as collateral to secure a loan or personal property purchased by a credit transaction; to set forth procedures for rate regulation, premium refunds, loss adjustment; to provide requirements for notice of proposed insurance, filing of forms, collection of premiums and maintenance of statistics.

§ 112.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Cash proceeds—The actual amount of cash received by a debtor after deducting from the cash advance the premium for credit life insurance, credit

accident and health insurance and for insurance on personal property pledged by debtors as collateral to secure a loan or personal property purchased by a credit transaction.

Commissioner—The Insurance Commissioner.

Credit transactions, transactions involving a debtor pledging personal property as collateral—Installment or deferred payment plans; revolving credit plans; bailment lease; security interests created by contract including pledge; assignment, chattel mortgage, chattel trust, trust deed, factor's lien equipment trust, conditional sale, trust receipt, other lien or title retention contracts and lien or consignment intended as security or other similar secured or credit transaction plans or leased property; or household goods insured by an installment floater.

Creditor—The lender of money or vendor or lessor of goods, services, property rights or privileges for which payment of the indebtedness is arranged through a credit transaction or a transaction involving a debtor pledging personal property as collateral or a successor to the right, title or interest of the lender, vendor or lessor and an affiliate, associate or subsidiary of any of them or a director, officer or employe of any of them or another person in any way associated with any of them.

Debtor—A borrower of money or guarantor of the borrower, or a purchaser of goods, services, property rights or privileges for which payment is arranged through a credit transaction or a transaction involving a debtor pledging personal property as collateral.

Identifiable charge—The amount a creditor charges a debtor or collects from him for policies of insurance other than credit life and credit accident and health insurance.

Personal property pledged by a debtor as collateral and personal property purchased under a credit transaction—Only the personal property of the debtor used for his personal use and not used in a business, trade or profession of the debtor. Further, the personal property may not include mobile homes, recreational vehicles or motor vehicles designed for highway use.

Policies, policies of insurance—Contracts of credit property insurance insuring against loss of or damage to personal property, covering a creditor's security interest or a debtor's interest in such property when the insurance is written as part of a credit transaction or a transaction involving a debtor pledging personal property as collateral and shall include a master policy, endorsement, rider, cover note, memorandum, certificate or other instrument or evidence of the insurance.

Source

The provisions of this § 112.2 amended November 22, 1974, 4 Pa.B. 2419. Immediately preceding text appears at serial page (14259).

§ 112.3. Explanation of submission of rates.

(a) “Risks and coverages of Installment Sales and Leased property” has been deleted from the Nation-Wide Marine Definition, 31 Pa. Code § 91.8 (relating to personal property floater risks). Therefore, this class of risk and type of coverage will no longer be considered uncontrolled and unfiled.

(b) On and after March 1, 1974, all insurance companies insuring personal property purchased under a credit transaction or a credit transaction involving a debtor pledging personal property as collateral must submit rates involving such policies of insurance to the Commissioner for prior approval. Rates currently in use shall be submitted for review by the Commissioner within 90 days of the date of publication of this chapter. The submission of new rates or submission of rates currently in use for review shall be in accordance with provisions of the Fire, Marine and Inland Marine Rate Regulatory Act (40 P. S. § 1221 et seq.).

§ 112.4. Writing of policies.

- (a) Policies may be written single interest or dual interest.
- (b) No policy shall be written as excess insurance. Policies insuring specific items of purchase or items pledged as collateral shall be primary insurance.
- (c) Policies of insurance shall not be used without the prior approval of the Commissioner.
- (d) There shall be no minimum premium charged.

Source

The provisions of this § 112.4 amended November 22, 1974, 4 Pa.B. 2419. Immediately preceding text appears at serial page (14260).

§ 112.5. Policy requirements.

All policies of insurance issued in this Commonwealth insuring personal property through a transaction involving a debtor pledging personal property as collateral or personal property purchased under a credit transaction or their equivalent, the premium or cost of which is paid as an identifiable charge, in whole or in part by the debtor, shall be written for the full term for which the premium is charged and shall contain full and complete information on the following:

- (1) Perils insured against.
- (2) Amount of insurance covering the article purchased or offered as security or pledged as collateral.
- (3) Rate charged for each \$100 of insurance.
- (4) Amount of the gross premium charged for each peril insured against when the premium is divisible and the aggregate premium charged for all perils insured against when the premium is not divisible.
- (5) Effective date of insurance to be provided and the term of insurance to be provided.

(6) The personal property insurance premium shall be based upon actual cash value of the personal property purchased in a time sales finance transaction. In a consumer loan transaction, the personal property insurance premium shall be based upon the lesser of the amount of the cash proceeds or the actual cash value of the personal property offered as security or pledged as collateral. The amount of personal property insurance shall not include any finance charge, service charge, or similar charge or any fee including but not limited to those designated as service, notary, prothonotary, recording, or registration fees and shall not include any life insurance premium, accident and health insurance premium or personal property insurance premium.

(7) Memorandum or certificate of insurance or other evidence of insurance must be given each insured debtor within 30 days after an indebtedness is incurred and should be readily identifiable with the master policy in question and shall contain all conditions and exclusions of the master policy including but not limited to information designated in this section. At the time an indebtedness is incurred, the debtor shall receive a copy of the Security Agreement, Financing Statement, or similar document evidencing among other items personal property insurance coverage afforded the debtor. All changes in policy terms and conditions shall be evidenced by an endorsement forwarded directly by the insurer to both the debtor and creditor.

Source

The provisions of this § 112.5 amended through December 21, 1979, effective December 22, 1979, 9 Pa.B. 4164. Immediately preceding text appears at serial page (21944).

§ 112.6. Purchase and sale of insurance.

(a) Purchase of insurance by debtor shall be voluntary.

(b) Policies of insurance shall not be sold if debtor has valid and collectible insurance on the same collateral to offer to the creditor and a loss payable endorsement is provided to the creditor for its protection. In the case of a credit transaction sale, or a transaction involving a debtor pledging personal property as collateral, no policies of insurance shall provide in any one kind of coverage an amount which exceeds the price of the personal property purchased in a time sales finance transaction, or the lesser of the amount of the cash proceeds or the actual cash value of the personal property offered as security or pledged as collateral. No debtor's policy of insurance shall be extended beyond the time period of the loan or financial arrangement unless at the written request of the insured debtor. If the insured debtor does not so request in writing an extension of the insurance policy term, a *pro rata* refund of the premium shall be made by the insurer or creditor to the debtor when the indebtedness is discharged by prepayment or otherwise prior to the expiration of the term of the insurance policy.

Source

The provisions of this § 112.6 amended through June 12, 1975, 5 Pa.B. 1558. Immediately preceding text appears at serial page (18383).

§ 112.7. Cancellation of insurance.

(a) No debtor's insurance shall be cancelled without due written notice by the insurer to the debtor unless the cancellation is at the request of the debtor. A request for cancellation by the insurer shall be inoperative when made by a creditor or assigns until or unless the insurer shall have given the debtor notice in writing of such request for cancellation.

(b) In the event of a termination of a master policy of insurance by the insurer there shall be at least 30 days written notice given to the creditor and the debtor and during such 30-day period existing policies shall remain in effect.

§ 112.8. Return of insurance premium.

(a) In the event of cancellation of a debtor's policy of insurance on repossession of personal property, the insurer or the creditor shall return any unearned premium on such policy to the debtor on a pro rata basis from date of cancellation. Any unearned premium amounting to less than \$1.00 need not be returned to the debtor. If a policy of insurance covering such personal property is issued by a mutual insurer or a participating stock insurer, the debtor shall be entitled to the benefit of any dividend plan under an individual policy of insurance. There shall be no minimum retained retention of premium. In situations wherein a repossession is preceded by a total or constructive total loss of personal property the insurer shall compute its loss liability in accordance with the insurance provisions of the policy and shall forward a notice directly to the debtor or to his estate's personal representative which accurately states the amount of liability under the policy of insurance, the computation basis thereof and the amount of loss payment to the lender or lien-holder.

(b) The insurer, or the creditor, after due written notice of full payment and satisfaction of lien, shall return any unearned premium on a debtor's policy of insurance to the debtor on a pro rata basis from date of termination. Any unearned premium amounting to less than \$1.00 need not be returned to the debtor. If a policy of insurance covering such personal property is issued by a mutual insurer or a participating stock insurer, the debtor shall be entitled to the benefit of any dividend plan under any individual policy of insurance. A minimum retained retention of premium shall not exceed \$1.00.

§ 112.9. Responsibility of insurer.

(a) No insurer or representative of insurer shall agree with or permit any person, firm, or corporation other than its own employees or attorneys or adjusters or independent adjusters to adjust or pay claims under debtor's policies. No agent, broker or other person having a retrospective commission arrangement or other

beneficial interest in such policy of insurance shall partake in the selection, designation, or employment of, any insurance carrier's employe, adjuster, or attorney, nor shall provide any office facilities for any insurance carrier's employe, attorney or adjuster, nor shall such agent, broker, or other person having a retrospective commission or other beneficial interest in any policy of insurance act in any capacity directly or indirectly in the adjustment of a loss, in behalf of the insurance carrier.

(b) No insurer or representative of insurer shall enter into or renew any agreement with any agent, broker or other person which permits the retention or withholding by such person for the purpose of payment of losses, or loss adjustment expense, any portion of premiums collected under policies of insurance issued by the insurer. Nothing in this subsection shall prohibit reasonable contingent commission arrangements based on underwriting results.

§ 112.10. Insurance solely for the interest of the creditor.

(a) If a policy of insurance provides insurance solely for the interest of the creditor, the insurer issuing such policy of insurance shall provide notice to the debtor that debtor's interest is not protected.

(b) Any company, agent, or broker who writes, arranges for, or obtains such insurance shall provide that the debtor be clearly advised in writing of the fact such insurance is for the sole protection of the creditor.

(c) In such single interest cases, no identifiable charge shall be made to the debtor for such insurance.

(d) Such policies of insurance also shall provide, except for willful acts, an express waiver of subrogation against the debtor or his assignee.

§ 112.11. Reporting of experience and expenses.

Experience and expenses shall be reported annually by May 1st of the following year on all business written in the Commonwealth of Pennsylvania, such experience and expense data shall include at the minimum exposures, premium written (gross basis, before experience refunds or dividends); premium earned; losses, both paid and incurred; number of claims paid and incurred. Also loss adjustment expenses, both allocated and unallocated; production expenses incurred, commission and other expenses; general expenses incurred; taxes, licenses and fees incurred; total expenses incurred and gain or loss from underwriting. Reports are to be presented to the Insurance Department in the manner prescribed in the following forms:

**STATE OF PENNSYLVANIA
 INSTALLMENT SALES FLOATER AND PERSONAL PROPERTY
 PLEDGED AS COLLATERAL FOR LOANS AND EXPERIENCE DATA**

Company Name _____
 Responsible Official _____
 Signature _____

Description <i>Single Interest Policies</i>	Calendar Year <i>Jan. 1-Dec. 31</i>	Written Exposures—*Premium (Certificates)	Earned *Premium	Losses (No Adjustments)		Number of Claims** Paid- Incurred
				Dollar Amounts Paid- Incurred	Incurred	
	19	_____	_____	_____	_____	_____
	19	_____	_____	_____	_____	_____
	19	_____	_____	_____	_____	_____
	19	_____	_____	_____	_____	_____
	19	_____	_____	_____	_____	_____
	<u>Total</u>	_____	_____	_____	_____	_____
<i>Dual Interest Policies</i>	19	_____	_____	_____	_____	_____
	19	_____	_____	_____	_____	_____
	19	_____	_____	_____	_____	_____
	19	_____	_____	_____	_____	_____
	19	_____	_____	_____	_____	_____
	<u>Total</u>	_____	_____	_____	_____	_____

*Please Furnish Premiums on a Gross Basis (Before Experience Refunds or Dividends)
 **Initial report should be filed in as much detail as possible. Future reports will require complete compliance with format.

STATE OF PENNSYLVANIA

INSTALLMENT SALES FLOATER AND PERSONAL PROPERTY
PLEDGED AS COLLATERAL FOR LOANS EXPERIENCE DATA

Company Name _____
Responsible Official _____
Signature _____

Description	Calendar Year Jan. 1 - Dec. 31	Loss Adjustment Expenses Allocated-		Production Expenses Incurred Commission- Other Expenses	General Expenses Incurred	Taxes Licenses Fees Incurred	Total Expenses Incurred	Gain From Under- Writing
		Expenses Allocated-	Unallocated					
All	19							
Installment	19							
Sales	19							
Floater	19							
Policies	19							
	Total							

§ 112.12. Enforcement.

A person, agent, broker, corporation, firm, partnership or association or an insurance company, association or exchange failing to comply with the provisions of this chapter shall be considered when appropriate in violation of any of the following acts or specified sections thereof and subject to penalties as follows:

(1) The Fire, Marine and Inland Marine Rate Regulatory Act, act of June 11, 1947 (P. L. 551, No. 247) as reenacted and amended by section 1 of the act of August 23, 1961 (P. L. 1053) (40 P. S. § 1233) and penalties specified in section 3 (40 P. S. § 1235) of that act.

(2) Section 346 of the Insurance Company Law of 1921 (40 P. S. § 471) and penalties specified in section 350 (40 P. S. § 475) of that act.

(3) Section 354 of The Insurance Company Law of 1921 (40 P. S. § 477b) and penalties specified in that section.

(4) Section 635 of The Insurance Department Act of one thousand nine hundred and twenty-one (40 P. S. § 275) and penalties specified in section 639 (40 P. S. § 279) of that act.

(5) Section 5(a)(4) of The Unfair Insurance Practices Act (40 P. S. §§ 1171.5(a)(4)) and penalties specified in sections 9—11 (40 P. S. §§ 1171.9—1171.11) of that act.

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